



Economic Affairs Interim Committee

66th Montana Legislature

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August 23, 2019

To: Economic Affairs Interim Committee
From: Jameson Walker, Legislative Attorney
Re: Administrative Rule Report, August 2019

The Economic Affairs Interim Committee is responsible for reviewing administrative rules promulgated by several state agencies for compliance with the Montana Administrative Procedure Act (MAPA).¹ The following notices are filed with the Secretary of State's Office for publication in the Montana Administrative Register (MAR). Notices are available at <http://www.mtrules.org> (search by notice number).

PROPOSAL NOTICES

Department of Agriculture and administratively attached entities

MAR Notice Number: 4-19-262

Subject: Adoption and amendment of rules pertaining to commodity dealer licenses.

Summary: The department proposes to adopt New Rule I pertaining to modified licenses for commodity dealers. The department states that the proposed rule provides common modifications and their associated triggers to help industry anticipate the department's probable action when responding to a variety of situations that arise in the commodity trade. The department proposes to adopt New Rule II providing a penalty matrix for commodity dealers and warehouse laws. The department states that the proposed penalty matrix implements House Bill 50, passed in 2019. Civil penalties are defined for entities that fail to obtain proper licenses or are in violation of other commodity dealer/warehouse laws. Fines are designed to discourage entities from not properly licensing and bonding. The department proposes to amend 4.12.1018 (term of licenses -- expiration), 4.12.1020 (financial statements filing date), and 4.12.1031 (other commodities). The amendments seek to update language and implement House Bill 50 and Senate Bill 73 (also passed in 2019).

¹ The Committee reviews rules promulgated by the following entities: Department of Agriculture, Department of Commerce, Department of Labor and Industry, Department of Livestock, State Auditor's Office, Division of Banking & Financial Institutions, Governor's Office of Economic Development, and Department of Revenue, Liquor Control Division. This report does not represent any action or opinion of the Committee and does not preclude additional action that may be taken by the Committee pursuant to its authority under the Montana Administrative Procedure Act, Title 2, chapter 4, MCA.

Notes/Hearing: The department will hold a hearing on September 4, 2019, to consider the notice.

MAR Notice Number: 4-19-263

Subject: Amendment of rules pertaining to pesticide records, registrations, and use of 1080 livestock protection collars and M-44 cyanide capsules and devices.

Summary: The department proposes to amend 4.10.207, 4.10.504, 4.10.1201 through 4.10.1204, and 4.10.1401 through 4.10.1404. Generally, the amendments clarify pesticide dealer recordkeeping requirements, update language to comply with Secretary of State requirements, remove language that previously allowed the acceptance of reports on pesticides used every fifth year, clarify 1080 livestock collar training requirements, and clarify requirements for M-44 cyanide capsules and ejectors by allowing for use as provided by the product label.

Notes/Hearing: The department will hold a hearing on September 3, 2019, to consider the notice.

Department of Commerce and administratively attached entities

MAR Notice Number: 8-94-171

Subject: Amendment of rules pertaining to the administration of the 2021 Biennium Federal Community Development Block Grant (CDBG) Program – Planning Grants

Summary: The department proposes to amend 8.94.3728. The department states that it is reasonably necessary to amend this rule because the federal regulations governing the state's administration of the CDBG and 90-1-103 require the department to adopt rules to implement the program.

Notes/Hearing: The department will hold a hearing on August 30, 2019, to consider the notice.

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-213-22

Subject: Amendment and repeal of rules pertaining to the Board of Respiratory Care Practitioners.

Summary: The department proposes to amend 24.213.2101 (continuing education requirements), 24.213.2104 (acceptable continuing education), 24.213.2121 (waiver of continuing education requirement). The board proposes to repeal 24.213.2107 (traditional education by nonsponsored organizations), 24.213.2111 (teaching), 24.213.2114 (papers, publications, journals, exhibits, videos, independent study, and college course work). Generally, the notice seeks to implement the department's standardized renewal, administrative suspension, and audit procedures. The amendments seek to streamline continuing education processes and add simplicity.

Notes/Hearing: The department will hold a hearing on August 29, 2019, to consider the notice.

MAR Notice Number: 24-201-52

Subject: Amendment of rules pertaining to the Board of Public Accountants.

Summary: The department proposes to amend 24.201.1108 (alternatives and exemptions), 24.201.2148 (verification), 24.201.2402 (exercise of practice privilege in other jurisdictions), and 24.201.2410 (enforcement against license holders and practice privilege holders).

Notes/Hearing: The department will hold a hearing on September 5, 2019, to consider the notice.

MAR Notice Number: 24-159-88

Subject: Adoption of rules pertaining to the Board of Nursing.

Summary: The department proposes to adopt New Rule I (use of clinical resource licensed practical nurses). The board states that the rule is necessary after the January 2019 meeting of the board's rules task force. At this meeting, a nursing program director requested that the task force consider creating a clinical resource licensed practical nurse (CRLPN) rule similar in nature to the clinical resource registered nurse rule currently in place (ARM 24.159.666). This was requested because program directors and faculty are registered nurses and do not always possess the expertise in role and scope that is necessary to teach practical nursing students in the long-term care setting.

Notes/Hearing: The department will hold a hearing on September 13, 2019, to consider the notice.

MAR Notice Number: 24-301-347

Subject: Amendment of rules pertaining to the Building and Commercial Measurements Bureau and the Business Standards Division.

Summary: The department proposes to amend 24.301.109 (definitions), 24.301.131 (incorporation by reference of International Building Code), 24.301.138 (calculation of fees), 24.301.142 (modifications to the International Building Code applicable only to the department's code enforcement program), 24.301.146 (modifications to the International Building Code applicable to both the department's and local government code enforcement programs), 24.301.154 (incorporation by reference of International Residential Code), 24.301.171 (incorporation by reference of International Existing Building Code), 24.301.172 (incorporation by reference of International Mechanical Code), 24.301.173 (incorporation by reference of International Fuel Gas Code), 24.301.175 (incorporation by reference of International Swimming Pool and Spa Code), 24.301.181 (incorporation by reference of International Wildland-Urban Interface Code), 24.301.201 (extent of local programs), 24.301.203 (funding of code enforcement program), 24.301.208 (incorporation by reference of Independent Accountant's Reporting Format for Applying Agreed-Upon Procedures During Audits of Certified City, County, or Town Building Code Enforcement Programs), 24.301.301 (incorporation by reference of Uniform Plumbing Code), 24.301.351 (minimum required plumbing fixtures), 24.301.401 (incorporation by reference of National Electrical Code), 24.301.511 (definitions), 24.301.514 (enforcement generally), and 24.301.904 (site accessibility). Generally, the department states that it is reasonably necessary to amend certain administrative rules to adopt and incorporate by reference new editions of numerous nationally recognized building codes. The department is also proposing additional amendments through the rules to coincide with the adoption and incorporation by reference of these building codes.

Notes/Hearing: The department will hold a hearing on September 16, 2019, to consider the notice.

Department of Revenue, Liquor Control Division

There are no pending rules.

Department of Livestock and administratively attached entities

There are no pending rules.

State Auditor's Office

MAR Notice Number: 6-256

Subject: Adoption and amendment of rules pertaining to annual audited reports and establishing accounting practices and procedures to be used in annual statements, and internal audit function requirements.

Summary: The department proposes to adopt of New Rule I (internal audit function requirements). The department states that the rule is based on the National Association of Insurance Commissioners (NAIC) Annual Financial Reporting Model Regulation 205, amended in 2014. The NAIC Accreditation Program provides a process to monitor and regulate solvency of multistate insurers. To be accredited, each jurisdiction must demonstrate adequate solvency laws and regulation to protect consumers and guarantee funds and also effective and efficient financial analysis and examination processes. The department states that the rule is necessary to maintain the agency's accreditation through the NAIC Financial Regulation Standards and Accreditation Program. The department proposes to amend 6.6.3501, 6.6.3515, and 6.6.3520 to comport with New Rule I.

Notes/Hearing: The department does not anticipate the need to hold a public hearing.

MAR Notice Number: 6-258

Subject: Amendment of rules pertaining to the notice of protection provided by the Montana Life and Health Insurance Guaranty Association.

Summary: The department proposes to amend 6.6.4603. The department states that the proposed amendments are necessary to conform to changes in 33-10-202 as amended by House Bill 64 from the 2019 session (effective January 1, 2020).

Notes/Hearing: The department does not anticipate the need to hold a public hearing.

Division of Banking & Financial Institutions

There are no pending rules.

Governor's Office of Economic Development

There are no pending rules.